

1 Appearances: (Cont'd.)

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1 Friday, January 12, 2024

10:47 a.m.

2 P-R-O-C-E-E-D-I-N-G-S

3 --oOo--

4 THE CLERK: Now calling civil case 23-3417,
5 Kadrey, et al. versus Meta Platforms, Inc.

6 Counsel, please state your appearances for the record,
7 starting with the Plaintiff.

8 MR. SAVERI (via Zoom): Good morning, your Honor.
9 Joseph Saveri on behalf of Plaintiffs.

10 THE COURT: Good morning.

11 MR. SAVERI: Good morning.

12 MR. BUTTERICK (via Zoom): Your Honor, Matthew
13 Butterick on behalf of the Plaintiffs. Good morning.

14 THE COURT: Hi.

15 MR. GHAJAR (via Zoom): Good morning, your Honor.
16 Bobby Ghajar from Cooley on behalf of Meta Platforms.

17 THE COURT: Hi.

18 MS. HARTNETT (via Zoom): Kathleen Hartnett, also
19 from Cooley, for Meta.

20 THE COURT: Hi. Okay. So, I guess the first
21 thing to discuss is just this little debate that you're
22 having in the Case Management Statement about doing summary
23 judgment first versus class certification. I was a little
24 bit confused by the discussion. I take it that what the
25 Defendants -- or Defendant is proposing is that they waive

1 objection to the one -- you know, they waive one-way
2 intervention objection as discussed in my standing order and
3 tee it up for cross-motions for summary judgment on the
4 copyright infringement issue prior to going to class
5 certification proceedings and prior to going to class
6 certification discovery.

7 That strikes me as a good idea in this case given all
8 the expense and difficulty that would be, you know, involved
9 with class certification, and given the -- the likelihood, I
10 think, that there are really no significant disputed issues
11 of material fact. Now, I'm less sure about that. I mean, I
12 -- there may be something buried in the technology rabbit
13 hole that constitutes a disputed issue of fact, but it seems
14 at least possible that there won't be any disputed issue of
15 material fact. And, so, why not do summary judgment first
16 on the terms proposed by the Defendant, if I understand what
17 the Defendant is proposing, and on the terms described in my
18 -- in my standing order?

19 MR. SAVERI: Your Honor, Joe Saveri. Let me --
20 let me go first on that I guess.

21 THE COURT: Okay.

22 MR. SAVERI: So, well, two things. I -- I think
23 that the first -- the first thing is that in order for that
24 to make any sense, the one-way intervention problem would
25 have to be solved and if the Defendants were, in fact,

1 prepared to waive that, that's -- that's a way around that,
2 and --

3 THE COURT: Well, I think by definition they are.
4 They're proposing doing it the way that I -- the way that I
5 lay out in the standing order.

6 MR. SAVERI: Yeah, and, your Honor, I've had cases
7 certainly where the Defendants were less clear about that
8 waiver issue, and it -- and, so, that --

9 THE COURT: So, let's just -- let's just get
10 clarity right now. I mean, I assume, Mr. Ghajar, that --
11 that you are proposing to waive the one-way intervention
12 objection as discussed in my standing order?

13 MR. GHAJAR: Yeah. We -- we read your standing
14 order, your Honor, and we -- we believe that -- we're the
15 ones proposing this structure because we believe that the
16 benefits of hearing summary judgment before class cert
17 outweighs the -- the issues and concerns with the one --
18 with the one-way intervention rule. So, yes, we've proposed
19 to waive that. We believe that the summary judgment issue
20 should be addressed first, and there are a lot of benefits
21 to doing so.

22 MR. SAVERI: And that -- your Honor, that's
23 helpful. And I guess the second point I guess I would make
24 is that it's not clear to me that the -- there will not be
25 factual issues, but I -- you know, that's something we have

1 to address, you know, in -- in due course.

2 I also tend to think that there will be substantial
3 overlap between the summary judgment -- the record of
4 summary judgment and other issues in the case, including
5 class certification. And, so, I think there are some
6 efficiencies to having all the discovery done first.

7 That's --

8 THE COURT: Well, certainly, it -- certainly it's
9 true that merits-related stuff will be relevant to class
10 certification, but there's a lot of class certification
11 stuff that will not be relevant to the merits. So, it does
12 strike me that it is, you know, potentially a way of, you
13 know, adjudicating the case more efficiently to do summary
14 judgment first.

15 MR. SAVERI: Your Honor, I -- I -- I understand
16 the point. It's -- you know, it's a case management choice
17 we're going to make now, and we have to decide that. I
18 guess if we were going to do that, it's important, I think,
19 to set the rest of the schedule. I mean, we think summary
20 judgment's going to be denied, and we wouldn't want to get
21 caught at a situation where there's a -- where there's a
22 pause.

23 THE COURT: I assure you that you will not have to
24 worry about that.

25 MR. SAVERI: Okay. Now --

1 THE COURT: The case -- the case will be moved
2 along. My reaction also was that -- that I didn't quite
3 understand why, you know, Meta was proposing that the
4 summary judgment hearing not take place until, you know, a
5 year and a half from now. That struck me as too elongated.
6 And we can -- obviously we can talk further about that, but
7 you do not have to worry about there being pause. You don't
8 have to worry about this litigation structure causing it to
9 go slower than it otherwise would. I assure you that that
10 will not happen.

11 MR. SAVERI: So, your Honor, does that mean that
12 we will kind of work out the whole schedule from now until
13 trial with the --

14 THE COURT: I don't think -- I don't think that's
15 necessary. I mean, it just doesn't seem -- you know, we're
16 going to do summary judgment, and then we would set a --
17 there's -- there wouldn't be discovery on class
18 certification until after the summary judgment ruling
19 anyway. But then we would set a schedule, you know,
20 promptly after that. You know, what I would do is set a
21 hearing date for summary judgment and then set a case
22 management conference for two or three weeks following the
23 hearing on summary judgment, and we'd set the -- we'd set
24 the schedule for class certification and trial at that time.

25 MR. SAVERI: But, your Honor, I guess my concern

1 is with any situation where the discovery is phased in any
2 way, because we end up in my experience having I think not
3 productive disputes about which bucket particular items of
4 discovery fall into and end up litigating those boundaries,
5 which --

6 THE COURT: I think that often happens when courts
7 try to phase it in the other direction, right. When -- when
8 courts try to do, you know, class cert first and they say
9 only discovery that's relevant to class cert can happen now
10 and then other discovery can happen later, that doesn't
11 really make any sense to me because, you know, there's so
12 much overlap. You know, the merits are so intertwined with
13 class cert these days, but I guess I don't see how that
14 would be the case if -- if we did summary judgment first.

15 MR. SAVERI: Well, I was -- I think you're right
16 about the class cert merits bifurcation issue, but I also
17 think -- and I guess maybe I'm not clear about what the
18 proposal was about the summary judgment dis --

19 THE COURT: The summary judgment as to the named
20 Plaintiffs, whether --

21 MR. SAVERI: Okay.

22 THE COURT: -- whether -- whether Meta is liable
23 for copyright infringement as to the named Plaintiffs.

24 MR. SAVERI: And -- and then I guess the question
25 that I have is is there merits-related, not class discovery,

1 related to the Plaintiffs or the case that we were going to
2 approve at trial in the event that the summary judgment
3 motion was denied, that we --

4 THE COURT: I don't see -- I don't see why there
5 would be and when you would do discovery on all that stuff.

6 MR. SAVERI: Okay. And that was the -- that was
7 the bifurcation issue that I was worried about, that somehow
8 that we would end up in a situation where we'd be fighting
9 about whether particular discovery was just summary
10 judgment. If we're going to go to the merits, let's --
11 let's do it this way. The Defendants could file their
12 summary judgment motion, but we're going to -- we --

13 THE COURT: You may file on -- I mean, I'm
14 assuming you may want to file a cross motion for summary
15 judgment.

16 MR. SAVERI: Absolutely. Absolutely, your Honor.
17 to me, just proceeding with discovery as a piece instead of
18 fighting about what phases it is that we're in is the way to
19 go. Otherwise, it's inefficient.

20 Oh, if your Honor's inclined to proceed with the
21 summary judgment motions first and we -- we have the clarity
22 around the -- the waiving of the one-way intervention rule,
23 I mean, I under -- I understand the plan.

24 THE COURT: But just to make sure that we're on
25 the same page about the plan, there would be no class

1 certification discovery until the second phase?

2 MR. SAVERI: Your Honor, I -- given what you said
3 a minute ago about the overlap between the -- as the
4 standard has evolved between class cert discovery and merits
5 discovery, it's -- it's hard for me to distinguish them.
6 Certainly, hypothetically, that's -- that's my experience.
7 It would be basically --

8 THE COURT: Class list, the list of all the people
9 who were in the class, information -- contact information
10 for all the people who are in the class, information about
11 all the unnamed class members.

12 MR. SAVERI: Certainly the notice issues would
13 come after that, but if -- if the issue has to do with what
14 the experts are going to say or whether there are issues of
15 common fact or law presented, those are inherently tied to
16 the merits, and I think under the law the way the standard
17 is, those are things at least these days that tend to
18 benefit from being considered on -- on that full record.
19 And, so, what -- I think it makes sense to proceed this way.
20 I -- I -- I just don't want to -- I want to avoid if
21 possible litigating what's a class discovery issue and
22 what's a merits discovery issue.

23 THE COURT: I've been doing it this way for 10
24 years or I've been giving Defendants the option to do it
25 this way for 10 years, and I've never had that problem. I

1 mean, the problem -- when you do it in the other direction,
2 that's when you have the problem. When you do it in this
3 direction, you avoid that problem. That's one of the -- one
4 of the benefits of doing it this way. Not every case -- it
5 doesn't make sense for every case to do sum -- you know,
6 cross-motions for summary judgment before class cert. And,
7 of course, the -- in my view, it doesn't make sense unless
8 the Defendant is going to waive the one-way intervention
9 objection. And, you know, in cases where the Defendant is
10 willing to waive the one-way intervention objection, my -- I
11 have found that in most cases it makes sense to do cross-
12 motions for summary judgment first before opening the class
13 certification discovery floodgates.

14 MR. SAVERI: Very well. You know, by the time you
15 get done with summary judgment, it's pretty clear I think
16 what -- the extent to which there are common issues of fact
17 or law in the case, and that, I mean, obviously informs the
18 Rule 23 --

19 THE COURT: I think that -- I think you're right
20 about that, yeah. I mean, I think often it becomes more
21 clear once you get to summary judgment, you know, how hard
22 or easy it's going to be to get a class certified.

23 MR. SAVERI: I think that's right. I think that's
24 right. Yeah.

25 THE COURT: And, for this case, I think this --

1 this case is -- it's about the merits. I mean, this -- for
2 -- you know, this case, it's really about -- the merits is
3 where the rubber meets the road, you know. It's somewhat
4 difficult to -- you know, somewhat difficult to imagine --
5 given your allegations in the complaint anyway, it's
6 somewhat difficult to imagine a strong argument against
7 class certification. But obviously you have to take that
8 comment with a grain of salt because I haven't -- I haven't,
9 you know, dived into that issue yet.

10 Okay. So, then having -- so, we will do summary
11 judgment first, summary judgment as to the named Plaintiffs.
12 And I don't -- I guess why can't we -- I mean, we really
13 can't get this done in a year? Like we can't -- we can't
14 have a hearing in December of '24 on cross-motions for -- I
15 mean, I -- the one -- the one potential argument against it
16 I suppose is like technical -- technological complexity, but
17 why wouldn't we be able to do a hearing on cross-motions for
18 summary judgment in December of '24?

19 MR. GHAJAR: We thought about that, your Honor.
20 We're contemplating a closed discovery in October. Then
21 there would be experts relating to the merits. There would
22 be technical experts. There are technical issues. These
23 aren't issues that -- that are -- are necessarily intuitive,
24 at least some of them the way the technology works. So,
25 there's going to be some technical experts to explain --

1 THE COURT: Could I -- could I interrupt you
2 there?

3 MR. GHAJAR: Yes.

4 THE COURT: What -- what discovery is going to
5 happen up to October? The -- like what -- how complicated
6 is that endeavor?

7 MR. GHAJAR: Well, we've begun. We have yet to --
8 the -- the parties have yet to produce documents. They're
9 still negotiating a protective order on the ESI issues. But
10 there's going to be discovery on -- on our side, the
11 Defendant's side, on the registration of the works, the
12 nature of the works, timing of the registration, who has
13 licenses to those registrations, whether the Plaintiffs
14 actually own or have given up rights to their -- the
15 copyrights, their use of AI. On the -- on the Plaintiffs'
16 side, Plaintiffs have outlined different types of discovery
17 they -- they will seek from Meta on -- on the way the models
18 work, the way they were trained, et cetera.

19 And -- and then, going back to your Honor's question, I
20 think given the type of data, given the number of -- where
21 the witnesses are potentially located, given -- and they're
22 not all in -- in the Northern District. And, so, there'll
23 be some travel involved for depositions. So, given -- given
24 the number of depositions, given the -- the types of data,
25 given the types of discovery, we think that the discovery

1 cutoff of late October is -- will be tough but reasonable.
2 And then there would be expert -- an expert-related
3 discovery. So, you have that brief period where you focus
4 on the experts. And then you file the motions and then
5 based on the way the pleadings have been briefed to date,
6 we've afforded one another time -- additional time to
7 complete the briefing. And, so, it's not one-week, two-week
8 turnarounds. And, so, that's why we contemplated that the
9 summary judgment motions could be filed in February. We
10 could probably push that up a little bit, and we didn't want
11 to jam up your Honor on the hearing date to give the Court
12 time to prepare. But that was the idea, that we are --
13 we're not trying to delay summary judgment. We contemplate
14 filing summary judgment in February.

15 THE COURT: No, I -- I hear you. And then we
16 don't want to -- you know, we don't want to jam up your
17 holidays next year with briefing either.

18 But, Mr. Saveri, you're the one who expressed concern
19 about, you know, undue delay in the case. So, where --
20 what's your -- do you believe this isn't a reasonable
21 schedule for doing cross-motions for summary judgment or
22 should we -- what's your case for doing it earlier if you --
23 if that's what you believe?

24 MR. SAVERI: So, maybe -- maybe just think and
25 process this out loud a little bit if -- if I might. I

1 mean, it's --

2 THE COURT: Yeah.

3 MR. SAVERI: So, we're in the middle of January
4 now. You know, I don't know -- I think that like the key
5 milestones to think about from here to there would be, one,
6 the completion of -- substantial completion of the document
7 discovery, then a period for percipient witness depositions.
8 Then -- then there would be experts, and the expert
9 discovery would be completed then before the summary
10 judgment motions were to be filed. And then there would be
11 -- I don't know if there'd be Daubert motions on top of the
12 summary judgment motions, but then we -- we'd have to talk
13 about what the -- what kind of the rhythm of the summary
14 judgment briefing would look like. So --

15 THE COURT: Can I ask a -- could I ask one
16 question? Sorry to interrupt you. You know, we had a
17 hearing on the motion to dismiss, what, like back in early
18 November or something like that?

19 MR. SAVERI: Yes.

20 THE COURT: And I said during that hearing
21 discovery can move forward immediately, and now you're
22 telling me more than two months later and we still don't
23 have a protective order, the parties still haven't submitted
24 a protective order? Why -- why is that?

25 MR. SAVERI: Your Honor, I -- I think we're --

1 we're -- we're close on that, but we haven't done it yet,
2 and we should be able to do that soon, as well as all the
3 other --

4 THE COURT: The parties are -- the deadline to
5 submit a stipulated protective order or competing protective
6 orders is seven days from today.

7 MR. SAVERI: Okay. That -- that's fine, your
8 Honor.

9 MR. GHAJAR: That's fine, your Honor.

10 MR. SAVERI: So, and with that in mind, if -- if
11 we were to get the document production substantially
12 complete, you know, in 120 days -- I don't know how many
13 deponents there would be -- that would take about 60 days.
14 I don't know where they are. I don't know how difficult
15 they would be to schedule. That puts us kind of six months
16 out. Then it seems to me we should be able to do expert
17 discovery in 60 or 75 days, and then -- then the motions
18 would be -- it seems to me the opening -- the opening briefs
19 would be filed sometime October November, and then we run
20 into the holidays.

21 You know, another thing we could do is -- is for the
22 Plaintiffs and Defendants to try to negotiate what that
23 schedule would be and try to submit something quickly given
24 -- given our schedules.

25 THE COURT: Yeah. I mean, my -- my inclination is

1 that I -- look, I don't -- I understand that there may be,
2 you know, technical complexity here, and I also don't want
3 to jam up people's, you know, holiday schedules. But this
4 seems like a fairly -- this schedule, particularly since
5 we're not doing class certification discovery, this schedule
6 seems too elongated to me.

7 MR. SAVERI: Okay.

8 THE COURT: You know, I think that you should work
9 towards, you know -- let me just look at the calendar a
10 little bit here.

11 MR. GHAJAR: Your Honor, may I interject?

12 THE COURT: Yeah.

13 MR. GHAJAR: I mean, I -- I take Mr. Saveri's
14 invitation for the parties to discuss this further, I -- I
15 make two observations. One, in -- in the Plaintiffs'
16 proposed schedule, the filing of summary judgment to hearing
17 would -- would take six months. We're obviously not
18 contemplating that kind of delay. We're trying to move
19 things along orally and quickly.

20 Second, your Honor might have read in the Case
21 Management Conference Statement a note that we put in
22 regarding the Huckabee case. Did your Honor see that?

23 THE COURT: I did. I did. I didn't read the --
24 this was the -- the one about saying that it was error to do
25 class certification before adjudicating the --

1 MR. GHAJAR: No, no, your Honor. That --

2 THE COURT: I was really -- I was going to ask you
3 about that. That -- I didn't read the case, but I -- I was
4 surprised to read the words that you used to describe the
5 case.

6 MR. GHAJAR: I think --

7 THE COURT: Did the Court really say that it would
8 be error to do -- to do class certification before
9 adjudicating fair use?

10 MR. GHAJAR: I think you're referring to the
11 Author's Guild case in the Second Circuit decision.

12 THE COURT: Okay.

13 MR. GHAJAR: Yeah. I -- I can address that in a
14 moment. I -- I think --

15 THE COURT: No. I don't think it really -- I
16 don't think it really matters because I -- I decided it as a
17 matter of --

18 MR. GHAJAR: You did.

19 THE COURT: -- discretion to do it that way
20 anyway.

21 MR. GHAJAR: Yeah.

22 THE COURT: I was shocked to see a court ruling
23 that it -- that it's in -- that it's error not to do it that
24 way.

25 MR. GHAJAR: What I was referring to, your Honor,

1 was the Huckabee case. The Huckabee case is a case that was
2 filed by a putative class in the Southern District of New
3 York against various Defendants, including Meta. That case
4 has now been transferred to the Northern District of
5 California. That case, we believe -- and we've indicated
6 this in the Case Management Conference Statement -- is
7 related to this case.

8 THE COURT: Okay. I missed that. Okay.

9 MR. GHAJAR: Okay. The complaint looks an awful
10 lot like the complaint that the Kadrey Plaintiffs filed
11 against Meta, involves the same -- same claims, same
12 putative class, et cetera. We think at a minimum it's
13 related. The parties have discussed whether it should be
14 consolidated, and I -- I want to put that on your Honor's
15 radar because that case was transferred -- today it was
16 reassigned from Magistrate Judge Tse to Judge Gilliam. At
17 some point we believe it will be related in front of your
18 Honor. We're waiting for the Plaintiffs to meet and confer
19 regarding whether it should be consolidated. We understand
20 that the Huckabee Plaintiffs and Mr. Saveri and -- and his
21 team have been discussing consolidation. And one wild card
22 is whether the Huckabee Plaintiffs will amend their
23 complaint. And -- and they may amend their complaint so it
24 looks awfully similar to the Kadrey complaint, in which case
25 consolidation may make sense. But they have not informed us

1 whether they intend to do that. I understand that they've
2 been discussing the issue with Mr. Saveri's firm and perhaps
3 counsel for the -- the Chabon Plaintiffs.

4 So, I mention that because --

5 THE COURT: Who is -- who -- who is counsel for
6 the -- in this new case?

7 MR. SAVERI: Your Honor, it's a firm from New York
8 called Dicello Levitt.

9 THE COURT: Okay.

10 MR. GHAJAR: And, so --

11 MR. SAVERI: Not anybody that's appeared in this
12 case before your Honor.

13 MR. GHAJAR: That's --

14 MR. SAVERI: Excuse me.

15 MR. GHAJAR: Yeah. Thank you. I just will --
16 I'll finish my thought, Mr. Saveri. Then maybe you can --
17 you could update the Court.

18 The -- the deadline to respond to that complaint is the
19 end of this month. If the -- if the Huckabee Plaintiffs
20 amend and the case is related and, more so, if the case is
21 consolidated, we need to synchronize those schedules. So,
22 I'm mindful of the effect of that case and -- and its
23 relatedness here to this schedule. We don't want to be
24 proceeding in two parallel identical cases on different
25 schedules. And, so, that's why we flagged the issue for

1 your Honor in the Case Management Conference Statement.

2 THE COURT: Okay. Yeah. I'm sorry I missed that,
3 but I have a question which is you don't have to -- you were
4 -- you made a reference to people still deciding where they
5 -- whether they thought the cases should be consolidated,
6 but the question of whether they should be related is
7 different from the question whether they should be
8 consolidated, and I'm not -- I haven't heard anything to
9 suggest that the two cases are not related, right.

10 So, one way -- so, if that's right, you know, one way
11 of -- of moving things along is initiating a process for
12 relating the cases now so that I can start managing both of
13 them. If there is a -- if there's some reason why they
14 shouldn't be related, then obviously that's a different
15 story. But why -- why isn't -- why hasn't this case already
16 been put in front of me?

17 MR. SAVERI: Your Honor, we agree that the case
18 satisfies the requirements to be a related action. It just
19 got here, and it was -- and the -- the Magistrate was just
20 declined. We intend to file the -- the administrative
21 motion to relate the case in the next day or so.

22 THE COURT: Okay.

23 MR. SAVERI: And I -- I completely agree with the
24 characterization that if you were to hold the two complaints
25 up to the light, there would be a remarkable symmetry

1 between the -- the Huckabee case and this one. I do think
2 we have to have some discussions about what happens next
3 given the motion to dismiss and -- and the status of our
4 complaint, which is now at issue.

5 We've worked with the lawyers before. I think right
6 now we're confident we can sort it out. To me it's not a
7 reason to delay setting a schedule now in the cases that you
8 do have, your Honor, because I think that's -- that's an
9 important thing to do, and we can --

10 THE COURT: Right. I mean, not to mention, I
11 mean, if -- you know, if the case is going to be -- if that
12 other case is going to be in front of me soon, then we can
13 just fold it into the schedule unless there's a good reason
14 not to.

15 MR. SAVERI: A hundred percent agree.

16 THE COURT: Okay. So, what I -- I guess what I'm
17 going to -- what I would propose is that -- and it sounds
18 like it might make sense -- don't we have a -- we had a
19 hearing -- you had a motion to be appointed interim lead
20 counsel or something like that coming up?

21 MR. SAVERI: Yes. We filed that last week. I
22 think the first date we could get on your calendar was
23 sometime in April.

24 THE COURT: Really? I thought -- I thought I saw
25 it sooner than that on the calendar, but I may be

1 misremembering.

2 MR. SAVERI: No, and maybe -- and maybe I'm --
3 I've got that --

4 THE COURT: Yeah, it's on -- it's on January 25th
5 on --

6 MR. SAVERI: I'm sorry, your Honor. I apologize.
7 I've -- I confused it with another case. Excuse me.

8 THE COURT: Okay. Well --

9 MR. SAVERI: So, we can be back -- excuse me, your
10 Honor.

11 THE COURT: It seems to me -- I think we were
12 about to say the same thing, but it seems to me that we can
13 be -- you know, we can get together again to discuss the --
14 it sounds like by that time, unless I'm -- unless there's
15 something I'm unaware of, by that time, that other case will
16 be in front of me as well, and we can all get together and
17 discuss how to proceed. I doubt there -- it's going to be
18 necessary to have much argument on the -- you know, the
19 motion to appoint interim lead counsel or whatever you --
20 whatever one calls it, lead Plaintiff, lead counsel. I
21 doubt that it's going to require too much discussion. It
22 may even end up, Mr. Saveri, that you submit a revised
23 proposal as to how that's going to go given this new case.
24 I don't know. I know that often happens.

25 So, I guess what I would propose is let's -- let's not

1 drag everybody into the courthouse in person for that
2 motion. Let's move it to the Zoom calendar at 1:00 o'clock
3 on Thursday, the 25th. And, presumably, that would be kind
4 of a useful further case management conference where we can
5 discuss sort of how to -- how to incorporate the other case.
6 We can discuss -- if necessary, we can discuss the issue of
7 lead Plaintiff and lead counsel, and we can -- we can set a
8 schedule.

9 And what I'm going to ask you to do is meet and confer
10 and, you know, propose a schedule. See if you can propose a
11 schedule that -- that results in a -- you know, I'm not
12 insisting that this happen, but I -- I think you should aim
13 for a schedule that -- that results in a summary judgment
14 hearing in January or February of next year, but also that
15 doesn't like have a briefing schedule that messes up your
16 holidays.

17 I was originally going to propose let's do the hearing
18 around this time next year and you can get all your briefing
19 in before the holidays, but maybe that's a little bit too
20 ambitious.

21 MR. SAVERI: What -- your Honor, look, I accept
22 the invitation now that we know how you want to do this and
23 how you want to sequence it. Let's let me and my opponent
24 get to work and see if we can come up with something. That
25 makes a lot of sense.

1 THE COURT: Well, and discuss -- you know, involve
2 the new -- you know, the new lawyers in the discussion too,
3 and we can discuss all of that. So, you can -- you can
4 file, you know, either a proposed schedule or competing
5 proposed schedules on Monday, the 22nd, and we will -- we'll
6 discuss that along with whatever other issues we need to
7 discuss relating to this motion to be appointed lead
8 Plaintiff and lead Counsel on the 25th. That sounds --

9 (Simultaneous speaking.)

10 MR. SAVERI: Excuse me. I'm sorry. I didn't mean
11 to -- oh, your Honor, and the schedule, would it be through
12 that January or February 2025 summary judgment hearing or
13 all the way until trial?

14 THE COURT: Just through the summary judgment
15 hearing and then the Case Management Conference two or three
16 weeks after the summary judgment hearing.

17 MR. SAVERI: Okay. Thank you, your Honor.

18 THE COURT: Okay. Is there anything else we can
19 do for you right now?

20 MR. SAVERI: I think that's everything on my list,
21 your Honor.

22 MR. GHAJAR: Nothing from Defendant unless your
23 Honor has any questions.

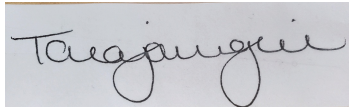
24 THE COURT: No. Okay. Thank you.

25 (Proceedings adjourned at 11:19 a.m.)

CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a true and correct transcript, to the best of my ability, of the above pages of the official electronic sound recording provided to me by the U.S. District Court, Northern District of California, of the proceedings taken on the date and time previously stated in the above matter.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken; and, further, that I am not financially nor otherwise interested in the outcome of the action.

A handwritten signature in cursive script, appearing to read "Teagunee", is centered within a light gray rectangular box.

Echo Reporting, Inc., Transcriber

Tuesday, January 23, 2024